

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE WAVE STUDIO, LLC, :
Plaintiff, :

Case No. 7:23-cv-03586-NSR

- against -

TRIVAGO N.V., TRIVAGO SERVICES US, LLC, :
TRIP.COM GROUP LIMITED, TRIP.COM :
TRAVEL SINGAPORE PTE. LTD., :
SKYSCANNER LTD., MAKEMYTRIP.COM, INC. :
Defendants. :

**DECLARATION OF JEFFREY
J. CATALANO IN SUPPORT OF
TRIVAGO’S MEMORANDUM
OF LAW IN OPPOSITION TO
PLAINTIFF’S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

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I, Jeffrey J. Catalano, declare as follows:

1. I am over the age of 18 and competent to make the following declarations. I am an attorney with Smith, Gambrell & Russell, LLP and am counsel for trivago N.V. and trivago Services US, LLC (“trivago”). Unless otherwise indicated, the statements in this declaration are based upon my personal knowledge. I submit this declaration in support of trivago’s Memorandum of Law in Opposition to Plaintiff’s Motion for Temporary Restraining Order in the above-captioned litigation.

2. trivago is a publicly traded company that provides a hotel metasearch engine for hotels and other accommodations through its website at www.trivago.com. Put simply, trivago aggregates rates and information from several travel sites, including large hotel groups (such as Marriott or Starwood), online travel agencies or “OTAs” (such as Expedia or Booking.com), and independent hoteliers. Attached hereto as **Exhibit A** is a true and correct copy of an article from trivago’s website describing trivago’s business, accessed May 10, 2023. The article is available at <https://businessblog.trivago.com/metasearch-basics-for-hoteliers/>.

3. The trivago metasearch engine makes it easy for a traveler to find the best deals on hotels or lodging at a specified location and at a specific time and in a specific price range. Attached hereto as **Exhibit B** is a true and correct copy of a search for “Hotel The Chedi Muscat” using trivago’s metasearch engine, accessed May 10, 2023.

4. When the user clicks on a particular hotel from the hotel choices on the results page, a new page is displayed which provides the ability to see additional information about the hotel, including photos of the accommodations. Attached hereto as **Exhibit C** is a true and correct copy of the hotel information displayed about Hotel The Chedi Muscat on trivago’s website, accessed May 10, 2023.

5. By selecting “Show More Photos,” a user can view multiple photographs for the selected hotel. The photos are provided to trivago by third parties, including OTAs and hotels themselves. Attached hereto as **Exhibit D** is a true and correct copy of the viewable photos for The Hotel Chedi Muscat on trivago’s website, accessed May 10, 2023.

6. On May 11, 2023, I sent, on behalf of trivago, an email to counsel for Wave in an attempt to obviate the need for the hearing on the temporary restraining order and any briefing on the motion for preliminary injunction. Without conceding Wave’s ownership of any photos, the validity of any copyrights to said photos, or the allegations of infringement, trivago stated that it has taken action to remove from the trivago website and system each of the photos in the Exhibits to the Wave Declaration that are identified as being on the trivago website.¹ trivago further explained that, due to the workings of the system and of the internet itself, the removed photos may still be viewable on the trivago.com website for a small period of days.

7. In addition, trivago offered to work with Wave to remove any photo that Wave specifically identifies as being present on the trivago website to which Wave claims copyright. In order to do so, trivago requested that Wave provide a link to the specific photos as well as information sufficient to confirm Wave’s good faith ownership thereof. Upon receipt of such information, trivago agreed to voluntarily remove the photos from the system.

I declare under penalty of perjury that the forgoing is true and correct.

Dated: May 11, 2023

/s/ 
Jeffrey J. Catalano

¹ For clarity, the removed photos are those identified in the Exhibits to the Wave Declaration with the actual image of the photo and for which an excerpt from the trivago website is displayed.